

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Joseph Wodzinski,	)	CASE NO. 1:12-cv-02795-CAB
	)	
Plaintiff,	)	JUDGE CHRISTOPHER A. BOYKO
	)	
v.	)	
	)	
Javitch, Block & Rathbone, LLC	)	
	)	
Defendant.	)	

**ANSWER**

Now comes Defendant, Javitch, Block, & Rathbone, LLC, by and through undersigned counsel, and for its answer to Plaintiff's Complaint, responds as follows:

1. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 1 of Plaintiff's complaint.
2. Defendant admits the allegations contained in paragraph 2 of Plaintiff's complaint.
3. Defendant admits the allegations contained in paragraph 3 of Plaintiff's complaint.
4. Defendant admits the allegations contained in paragraph 4 of Plaintiff's complaint.
5. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 5 of Plaintiff's complaint.
6. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 6 of Plaintiff's complaint.
7. Defendant admits that its primary place of business is located at 1100 Superior Ave, 19<sup>th</sup> Floor, Cleveland, Ohio 44114, but denies the remaining allegations contained in paragraph 7 of Plaintiff's complaint.
8. Defendant denies the allegations contained in paragraph 8 of Plaintiff's complaint.

9. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 9 of Plaintiff's complaint.
10. Defendant admits that it was retained by its client to recover a balance due relating to a Columbus Bank and Trust, Aspire Visa, account number ending in 8067, but denies the remaining allegations contained in paragraph 10 of Plaintiff's complaint.
11. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 11 of Plaintiff's complaint.
12. Defendant denies the allegations contained in paragraph 12 of Plaintiff's complaint.
13. Defendant admits that it utilizes business telephone numbers of 216-687-1199 and 866-781-7900, but denies the allegations contained in paragraph 13 of Plaintiff's complaint.
14. Defendant denies the allegations contained in paragraph 14 of Plaintiff's complaint.
15. Defendant denies the allegations contained in paragraph 15 of Plaintiff's complaint.
16. Defendant denies the allegations contained in paragraph 16 of Plaintiff's complaint.
17. Defendant admits that it has not initiated any lawsuit against Plaintiff, but denies the remaining allegations contained in paragraph 17 of Plaintiff's complaint.
18. Defendant denies the allegations contained in paragraph 18 of Plaintiff's complaint.
19. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 19 of Plaintiff's complaint.
20. Defendant denies the allegations contained in paragraph 20 of Plaintiff's complaint.
21. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 21 of Plaintiff's complaint.
22. Defendant denies the allegations contained in paragraph 22 of Plaintiff's complaint.
23. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 23 of Plaintiff's complaint.

24. Defendant denies the allegations contained in paragraph 24 of Plaintiff's complaint.
25. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 25 of Plaintiff's complaint.
26. Defendant denies the allegations contained in paragraph 26 of Plaintiff's complaint.
27. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph 27 of Plaintiff's complaint.
28. Defendant denies the allegations contained in paragraph 28 of Plaintiff's complaint.
29. Defendant denies for lack of knowledge or information sufficient to form a belief about the truth of allegations contained in paragraph "39." of Plaintiff's complaint.
30. Defendant denies the allegations contained in paragraph "29. 40." of Plaintiff's complaint.

#### **AFFIRMATIVE DEFENSES**

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff's claims are barred by Plaintiff's own actions and misrepresentations.
3. Plaintiff's claims are barred because Plaintiff breached the terms of the payment arrangement with Defendant by failing to submit payment by June 25, 2012. As a result, Defendant requested authority from its client to proceed with a lawsuit against Plaintiff to recover the balance owed, but Defendant was instructed by its client to forego a lawsuit against Plaintiff.
4. Plaintiff's claims are barred because Defendant has an ethical duty to abide by its client's instructions in deciding when to file a lawsuit.
5. Defendants did not violate the FDCPA, and if any such violation is found, such violation was not intentional and was based on a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the errors alleged in Plaintiff's complaint.
6. Plaintiff suffered no compensable actual damages.

7. Plaintiff's claims are barred by the doctrines of estoppel and impossibility.

WHEREFORE, having fully responded to Plaintiff's Complaint, Defendant prays that the Complaint be dismissed and that Defendant be permitted to go hence with the costs of this action, expenses and attorney fees borne entirely by Plaintiff.

Respectfully Submitted,

s/ Sam A. Benson

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#### **PROOF OF SERVICE**

I hereby certify that on January 11, 2013 a copy of the foregoing was also filed electronically in accordance with the Court's Electronic Filing Guidelines. Notice of this filing will be sent to the parties by operation of the court's electronic filing system. Parties may access this filing through the court's system.

s/ Sam A. Benson

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